

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Monroe D. Kiar, Town Attorney
(954) 584-9770

SUBJECT: Ordinance

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING, SECTION 16-7, ENTITLED “SMOKING IN DESIGNATED AREAS PROHIBITED”; PROHIBITING SMOKING AT SPECIFIED LOCATIONS ON TOWN PROPERTY; ESTABLISHING PROCEDURES REGARDING CIVIL INFRACTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Town Council at its meeting of April 2, 2003, directed the Town Attorney to prepare an ordinance banning smoking in designated areas, specifically banning smoking in and around outdoor municipal parks within the Town of Davie in order to protect the right of residents of the Town of Davie to the quiet enjoyment of Davie’s municipal parks. In adopting this Ordinance, the Town of Davie will be joining with numerous other municipalities within Broward County that have previously enacted ordinances banning smoking in public places, as well as the State of Florida through the constitutional enactment of the Florida Clean Indoor Air Act.

PREVIOUS ACTIONS: None

CONCURRENCES: N/A

FISCAL IMPACT: N/A

RECOMMENDATIONS: The Town Attorney finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

ATTACHMENTS: Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ENTITLED "SMOKING IN DESIGNATED AREAS PROHIBITED"; PROHIBITING SMOKING AT SPECIFIED LOCATIONS ON TOWN PROPERTY; ESTABLISHING PROCEDURES REGARDING CIVIL INFRACTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, safeguarding the right of residents of the Town of Davie to the quiet enjoyment of the beauty and integrity of clean air at open-air, outdoor municipal parks within the Town of Davie is of significant importance to the residents of the Town of Davie; and

WHEREAS, the Town Council of the Town of Davie recognizes the considerable risk to the public health resulting from second-hand inhalation of smoke emitted from cigarettes, pipes or other smoking apparatuses; and

WHEREAS, the Town Council of the Town of Davie recognizes that second-hand inhalation of smoke emitted from cigarettes, pipes or other smoking apparatuses may be offensive and cause injury to non-smokers who do not wish to inhale second-hand smoke while visiting outdoor municipal parks within the Town of Davie; and

WHEREAS, it is the desire of the Town Council of the Town of Davie to preserve the pristine quality of the air in and around outdoor municipal parks within the Town of Davie and to protect the right of residents of the Town of Davie to the quiet enjoyment of Davie's municipal parks; and

WHEREAS, numerous municipalities within the County have previously enacted ordinances banning smoking in public places; and

WHEREAS, the State of Florida through the constitutional enactment of the Florida Clean Indoor Air Act, has banned smoking in areas of public accommodation; and

WHEREAS, the Town Council determines that the prohibition of smoking in the Town's public parks serves to protect the health, safety and welfare of the citizens and residents of the Town of Davie.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA THAT:

SECTION 1. The aforementioned "WHEREAS" clauses are hereby ratified and confirmed, and incorporated herein.

SECTION 2. Section 16-7 of the Davie Town Code of Ordinances is hereby created to read as follows:

SMOKING PROHIBITED IN OUTDOOR AREAS IN TOWN PARKS.

- 1) It shall be unlawful for any person to smoke cigarettes, cigars, pipes or any other smoking apparatus on playing fields and playgrounds, bleacher areas, dugouts, around team seating areas, concession areas, spectator areas, restrooms, or any other areas not specifically designated as a permitted smoking area within any park owned and operated by the Town of Davie. All designated smoking areas will be specifically demarcated by signs stating that "smoking is not prohibited" in that area.
- 2) Upon an individual's first violation of this Ordinance, a Park Ranger or an appropriate Town Official will issue a warning to any person in violation of the provisions of this section. Any refusal by an individual to comply with this Ordinance upon issuance of a warning will result in the issuance of an automatic fine in the amount of twenty-five dollars (\$25.00) by a law enforcement officer.
- 3) A fine of twenty-five dollars (\$25.00) shall be assessed for any subsequent violation of this Ordinance by a law enforcement officer of the Town of Davie.

- 4) This section shall not apply to any person smoking within a parking lot located in a Town park.

SECTION 3. It is the intention of the Town Council of the Town of Davie that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Davie, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 5. All Ordinance or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 6. This Ordinance shall take effect on July 1, 2003.

PASSED ON FIRST READING THIS _____ day of _____, 2003.

PASSED ON SECOND AND FINAL READING THIS _____ day of _____, 2003.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ day of _____, 2003.